

Exhibit 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALISHA BRIGGS,)
)
Plaintiff,)
vs.) NO. 3:14-cv-05608-RBL
)
UNITED STATES OF AMERICA;)
and PENNY M. FAIRES, M.D.,)
and SCOTT KENNEDY, wife)
and husband,)
)
Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF
ALISHA BRIGGS
March 6, 2015
Hoquiam, Washington

Taken Before:
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1 doctor kind of like.

2 MR. KAHLER: She has a spinal cord rehab doctor
3 at Harborview.

4 MR. FAIN: Okay.

5 THE WITNESS: I forgot her name, her special
6 thing.

7 BY MR. FAIN:

8 Q Have you seen her yet?

9 A No, I see her in March.

10 Q Okay. And you have given me your current - I guess your
11 PCP would be Dr. --

12 A Eileen.

13 Q -- Petralia?

14 A Yeah.

15 Q I can't read my own writing there. And then you are
16 going to be seeing the rehab physician at Harborview.
17 Are all of your current healthcare providers located in
18 Seattle or do you have anybody close-by?

19 A Well, I have BHR, which is just down the road, which is
20 for counseling and then all my other doctors are in
21 Seattle.

22 Q Okay. And who are your other doctors?

23 A Well, I go to urology at UW. I forget their name. I
24 haven't been there for like a year. And then there is
25 Dr. Crane up there and Dr. Eileen. So basically all the

1 definitive in that area. I have just been dealing with
2 the impacts.

3 Q What kind of exercises do you do at home?

4 A I walk every day. I walk around one block every day and
5 I go swimming twice a week.

6 Q You go to meetings twice a week?

7 A Swimming.

8 Q Oh, swimming?

9 A Yeah.

10 Q When you say you walk around the block, is that the
11 block that you live on?

12 A Mm-hmm. Yeah.

13 Q And when you walk around the block, do you use anything
14 to assist you in walking?

15 A No, I just use my braces. I can't walk without my
16 braces.

17 Q Can I - is it okay if I walk over there and just look at
18 the brace?

19 A Yeah, sure. Yeah. They are just basically AFO.

20 Q AFO?

21 A Yeah.

22 Q And it goes under the shoe? It goes under the foot?

23 A Yeah, it goes all the way because I have foot drop
24 really bad.

25 Q And that's bilateral?

1 A Yeah, I got it on both of them.

2 Q May I take a picture of those?

3 A Yeah. Do you want me to take them off or --

4 Q No, you can just leave them on.

5 MR. FAIN: If it is okay with Ray.

6 THE WITNESS: Yeah, sure.

7 MR. KAHLER: Yeah.

8

9

(Brief discussion off the
10 record.)

11

12 BY MR. FAIN:

13 Q When you walk around the block every day, you wear your
14 AFO braces; is that correct?

15 A Mm-hmm. Yeah.

16 Q Do you use any other devices?

17 A No. If I walk farther than that, I have to use a cane,
18 but that's as far as I can walk without help.

19 Q And when you say you use a cane when you walk farther
20 than that, what is the furthest distance you have walked
21 in the last two years?

22 A Probably around the block twice.

23 Q Have you tried anything more than that?

24 A No, because if I go too far, I start getting muscle
25 weakness and things. I'm afraid I'm going to collapse.

1 lien information and I think he has given us something
2 already and there probably is more he will give us, but
3 do you have any - well, strike that.

4 Do you plan on going back to school?

5 A I would hope to go back to school eventually, yeah.

6 Q What for?

7 A Oh, I haven't decided yet. I haven't got to that point
8 yet. I have been just working on walking and peeing and
9 all this other stuff, but I would like to go back to
10 college.

11 Q How long have you been walking?

12 A A very short period of time. Since this summer.

13 Q Okay. Well, you started off - when you got out of your
14 hospitalization, you were in a wheelchair; correct?

15 A I was with a Foley catheter, yeah.

16 Q And how long were you in the wheelchair?

17 A A long time. All the way until like September of this
18 year - so it was the following year - so since this
19 summer, so - like late - I didn't start getting out of
20 the wheelchair until like late September.

21 Q So roughly sometime in mid to I guess the fall of
22 2014 --

23 A Yeah.

24 Q -- in the wheelchair?

25 A Mm-hmm.

1 Q And then you were ambulating with, I presume, your AFO?

2 A AFO and a cane. And then I was able to lose the cane
3 lately.

4 Q When did that happen?

5 A About a month-and-a-half ago.

6 Q And it is March now, so roughly first part of 2015?

7 A Yeah. Right in there, yeah.

8 Q Do you remember your - well, strike that.

9 I want to go back and stay on sort of your medical
10 history here. Do you remember when you first started
11 having back pains?

12 A My right hip would bother me off and on, but I didn't
13 really start having back pain severe until April - April
14 2012.

15 Q I want to go back further. I want to talk about your -
16 I started off about your back, but if you would rather
17 start with the hip, we are going to get them both.

18 A Okay.

19 Q But I would like you to tell me, in your own mind, when
20 you first started having troubles with either your back
21 or your hip.

22 A Geez. Okay. It was awhile ago. Geez. Several years.
23 See I went - in 2010 I went to Eileen for my right hip
24 that was bothering, muscle spasms and I went then. And
25 I got a referral for some massage over here at Lori's.

1 recall about your - was that your first visit with Dr. -
2 I'm going to call her Dr. Penny.

3 A Yeah. That was on April 25th. Yeah, it was the first
4 time I went there, to Sea Mar.

5 Q And I'm going to take a minute. I'm going to get my
6 records out and I'm going to ask you some questions
7 about that visit.

8 A Okay.

9 MR. FAIN: And if we can go off the record for a
10 minute, I'm also going to go out to my car and get my
11 latte, because I'm dying.

12

13

14 (Brief recess.)

15

16

17 BY MR. FAIN:

18 Q I would like you to tell me what you remember about your
19 first visit with Dr. Faires.

20 A Okay. Well, I came into the clinic and basically they
21 had two doctors up on the board and they gave me
22 Dr. Faires. And I went in there and I told her that my
23 right hip was bothering me and that it was radiating
24 into my back. And I told her that I had some muscle
25 spasms and I was having trouble sleeping and I was

1 A My dad dropped me off.

2 Q He didn't come in the building with you?

3 A No.

4 Q And when you say they sad two doctors' names on the
5 board, what --

6 A They had Dr. Stokan and Dr. Penny Faires and they gave
7 me Dr. Penny Faires because they said, "You could see
8 this one or Dr. Penny Faires, you can try the new
9 doctor," and I said I would try the new doctor.

10 Q Okay. Did you have any questions about her or them or
11 Dr. Stokan?

12 A Any questions or --

13 Q When they said you could take your pick, did you have
14 any questions about it?

15 A No, I just said I would try the new doctor.

16 Q Did you know the old doctor?

17 A I had been with my mother a couple times to Dr. Stokan.

18 Q Okay. And so when you got in with Dr. Faires, did
19 someone else bring you back to the room or did
20 Dr. Faires come get you or how did that work?

21 A No, I think it was like a nurse tech or something and
22 she would come and get me and take my blood pressure and
23 take me to the back room.

24 Q Did she ask you any questions that you remember?

25 A She asked me if I was depressed or not and I said no.

1 vitamins and - it is this sheet right here.

2 Q That's what you are taking about?

3 A Yeah, Citrimax and vitamins.

4 Q And so how is it that the nurse knew then or Dr. Faires
5 knew that you had used Flexural in the past?

6 A Oh, because she asked me about Flexural and I said that
7 I hadn't used it, but I had seen it.

8 Q Where had you seen it?

9 A My mother had taken it because she had had back spasms
10 off and on. She had to have a back surgery eventually,
11 but . . .

12 Q Do you remember anything else about your visit with
13 Dr. Faires on April 25th, 2012?

14 A No, that was basically the gist of it.

15 Q How did your dad know what time to come pick you up?

16 A He just waited for me. I think he dropped me off and
17 then came back.

18 Q How long were you there at the Ocean Shores clinic?

19 A I waited for awhile in sitting area. I was only there
20 for like 30 minutes max maybe. I was only with
21 Dr. Faires five minutes maybe max.

22 Q Okay. And can you tell me what happened between April
23 25th, 2012 and May the 3rd - and May the 3rd is not in
24 here. May the 3rd is the day you went to the ER.

25 A My back got progressively worse and I went to the floor.

1 I used an exercise ball and I was on the floor 24 hours
2 a day basically. I wasn't - I wasn't sleeping in my bed
3 anymore.

4 Q And when you say it got worse, what exactly got worse?

5 A The numbness went to the other side and started going
6 down the other leg and I got increasing pain. I got to
7 where I was having trouble urinating. I had to urinate
8 on the floor - in a bowl on the floor because I couldn't
9 sit on the toilet anymore because I had too much pain.

10 I had numbness going into my - starting to go into my
11 groin, just an increase in - I wasn't walking or sitting
12 or standing. I was on the ball on the floor most of the
13 time.

14 Q Where did the ball come from?

15 A It was an exercise ball that we had at the house.

16 Q For what?

17 A It was a yoga exercise ball. Like, you know, those big
18 - like people do crunches on them or whatever.

19 Q I mean, why did you all have an exercise ball in your
20 home?

21 A Because we exercised a lot. We come from a household
22 that exercises all the time. I used to exercise all the
23 time.

24 Q And you mentioned something about numbness.

25 A Mm-hmm.

- 1 Q You have probably heard a lot of medical terms by now.
- 2 A Yeah.
- 3 Q But have you ever had a reaction to NSAIDs before that?
- 4 A No, that was the first big reaction I ever had. I'm
- 5 kind of - I can't take too many NSAIDs. They thin my
- 6 blood too much, so I can't take a bunch.
- 7 Q Yeah. Okay. So next visit to Sea Mar was on - when -
- 8 does May the 7th sound right?
- 9 A Yeah.
- 10 Q Okay.
- 11 A Yeah.
- 12 Q Okay. As you look through that chart note, which I've
- 13 got to find, is there anything that you saw that you
- 14 disagreed with in that chart note? Take a minute and
- 15 read it.
- 16 A Yeah.
- 17 MR. KAHLER: And I will object to the form again
- 18 just as to foundation on some of these medical terms.
- 19 MR. FAIN: Yeah. Sure.
- 20 THE WITNESS: Okay. No, I don't see anything.
- 21 BY MR. FAIN:
- 22 Q Okay. So did you go in in the afternoon?
- 23 A Yeah, I don't remember what time I went in. It says I
- 24 went in at 12:59.
- 25 Q Okay.

1 A Yeah, I went in the afternoon. And I had to use a
2 walker to get there.

3 Q Okay.

4 A My dad drove me there in a big SUV and I was on my ball
5 in the SUV. And then he got me out of the car, helping
6 me, and then I had a walker. So I used a walker to get
7 into the place and then I had to be on the exercise ball
8 in the waiting room. And I used the walker to get back
9 there and I was on the exercise ball in the actual exam
10 room.

11 Q Did you have the exercise ball with you when you were at
12 the ER on May the 3rd?

13 A No, I only had a walker, but I laid on my side in the
14 car to get there and then I laid in the waiting room on
15 my side and then I used a walker to get into the back
16 and then I laid on my side again.

17 Q Okay. Did you - did you tell that doctor about the
18 exercise ball?

19 A I did, yeah. And by then, my knees were starting to get
20 really beat up from being on the floor.

21 Q Say again?

22 A My knees were start starting to get really beat up from
23 being on the floor. In fact, they are still really beat
24 up from --

25 Q So if I have got this right then, on May the 3rd you

1 blood work done. And I had to sit to have blood work
2 done and I could barely do it. Like I could barely sit
3 to get blood work done.

4 Q Do you remember if you were sitting on the ball when
5 that blood work was ordered, do you remember whether
6 that was May the 7th or was that later?

7 A It was ordered on this one. We did blood work. Because
8 they had blood work right in the little thing. They do
9 blood work, too.

10 Q Okay.

11 A And I wasn't sitting on my ball. I sat on the chair and
12 I went back on all fours on the ball. I never sat on
13 the ball. I was only on like all fours on it.

14 Q Okay. Were you on all fours on the ball when Dr. Faires
15 was in the room?

16 A Yeah, I was.

17 Q Were you on all fours on the ball when the nurse was
18 with you?

19 A Mm-hmm.

20 Q Is that a "yes"?

21 A Yeah.

22 Q I'm having trouble understanding what lying across the
23 ball - in my mind I have got you like on all fours and
24 the ball is beneath your belly.

25 A Under your belly, yeah.

1 Q All right.

2 A It was really swollen on that side.

3 Q And she indicated there was tenseness. In my own -
4 well, what would - do you remember feeling tense?

5 A It was just - it was just really jacked up. That area
6 right there was very swollen and hard.

7 Q All right. Did that ever become infected?

8 A No, it didn't. It just had the hives on it from
9 the . . .

10 Q All right. And do you remember what medicine she gave
11 you that day?

12 A She gave me Prednisone and pain medicine.

13 Q Percocet?

14 A Percocet, yeah.

15 Q And do you remember getting those?

16 A I remember getting those, yeah.

17 Q Did those help at all?

18 A They did, but the back pain just progressively got
19 worse.

20 Q Really?

21 A Yeah.

22 Q Okay. What happened between May the 7th and May the
23 15th?

24 A Just progressively got worse. I just got to where I was
25 on my ball - I mean, I would try to get off my ball

1 before and now I was on my ball permanently, like 24
2 hours a day.

3 And continued to pee - getting worse with the
4 urinary. I got to where I started using diapers and I
5 didn't even try to make it to the toilet at all. My dad
6 moved the toilet out. It was a camper toilet and he
7 moved it out by the couch and he was actually picking me
8 up to use it.

9 And I wasn't having any bowel movements at all
10 because I wasn't eating at all because of the nausea.
11 And going pee was getting harder and harder. I had to
12 push to actually pee.

13 Q When you say, "push to pee," what do you mean?

14 A Well, basically it is almost like if you had an
15 obstruction or something. It it just like I couldn't -
16 I had to like - I had to be on all fours to pee and I
17 had to pee - whenever I had the urge to pee, I had to
18 pee right then and if I held it, then I wouldn't be able
19 to pee later. And I had to force myself to pee. Like I
20 had to push it out.

21 Q What I'm really wondering is when you say, "push it
22 out," do you mean by doing a - just tensing your
23 abdominal muscles and trying to pee real hard or did you
24 have to actually physically push on something?

25 A No, use my muscles and like push really hard. I didn't

1 Q Yeah. Just tell me what you remember about that
2 discussion.

3 A Well, I remember going in there and I had an adult
4 diaper on at that time and I showed her my adult diaper
5 on. And I said that I was having extreme difficulty
6 peeing and I was having incredible amounts of pain and
7 it was getting really severe.

8 And she looked at me and she said, "Well, I think
9 that we need to get an MRI done particularly since it is
10 affecting the urinary part of you." And she refilled my
11 prescriptions and that was basically it.

12 Q Okay. Well, first of all, when she refilled your
13 prescriptions, she didn't give you the steroids again?

14 A No, she didn't. She asked me if I wanted them and I
15 said I didn't that want anymore Prednisone.

16 Q Why not?

17 A Because of the way it made me feel. They have a blood
18 sugar spike. It made me feel really awful.

19 Q You are not diabetic, are you?

20 A No, I'm not.

21 Q How do you know your blood sugar spiked?

22 A Because of the way it felt when I went into the hospital
23 later and then my blood sugar was really high and it
24 came down later. It was from the Prednisone.

25 Q So you are talking with Dr. Faires about the MRI.

1 A Mm-hmm.

2 Q Did you discuss where you would go for the MRI?

3 A No. She just said she was going to put in a referral
4 for one.

5 Q Did you see her do the referral?

6 A She just did some stuff on the computer.

7 Q Did you talk to anyone out front about the referral?

8 A No. She said they would call me.

9 Q Now, you - if I recall, you were - well, strike that.

10 Did you use the ball on this visit, the May the 15th
11 visit?

12 A I did and I used the walker, too.

13 Q So you used the walker and the ball on both visits?

14 A Yeah.

15 Q And as on May the 7th, would the same thing apply to May
16 the 15th, that Dr. Faires saw you use the ball; is that
17 correct?

18 A Yeah.

19 Q Okay. So in other words, you were using the ball on all
20 fours when Dr. Faires came in or at some point during
21 your visit?

22 A The whole time I was on the ball.

23 Q So she is talking to you while you were looking down at
24 the floor basically?

25 A On the ball, yeah.

1 me with that. And I progressively got worse. I got to
2 where I just was getting into excruciating agony. It
3 just kept getting progressively worse and the numbness
4 kept going farther and farther down my legs.

5 Q And when you were at Sea Mar on May the 15th, how far
6 down did it go?

7 A It went like down --

8 Q Just a second. I'm going to have you - I'm going to ask
9 a bigger question.

10 A Okay.

11 Q I'm going to let you tell us. I'll just kind of write
12 notes. If you would, I would like you to describe the
13 progression of the numbness between let's say May the
14 7th and May the 20th.

15 A Okay. Well, the numbness, on May the 7th it was on both
16 sides but not as far down. And then by May the 20th it
17 was down completely to the point where my feet were
18 affected. Like my feet were flopping on May 20th.

19 Q Okay. Meaning you were not able to lift the toes of
20 your feet?

21 A No, they were completely like slack.

22 Q Okay. The foot drop?

23 A Yeah.

24 Q You've heard that term?

25 A Yeah.

1 Q Okay. Tell me, if you can - I'm just going to sit back
2 and write notes again.

3 A Okay.

4 Q Walk me through that period of whenever you get called
5 to go to the hospital and end up in Olympia. I know
6 you - I think you called the fire department or the
7 paramedics or something --

8 A Mm-hmm.

9 Q -- and then you go to the hospital in Olympia and you go
10 through surgery and rehab. And I'm going to have you
11 just kind of describe what is going on in that period of
12 time. And I'm not going to ask you specific questions,
13 okay?

14 A Okay. Well, I was on the couch and we called the medics
15 and they came and got me. And they were really careful
16 how they moved me. And they asked me if I had been in a
17 car wreck and I said no. And they gave me an IV. I
18 remember them giving me an IV in the curves and them
19 talking to me.

20 And they took me in here to Grays Harbor and I saw
21 Dr. Alberton (phonetic) and she examined me. And she
22 did a bowel exam where they go and see how much - how
23 strong you are and different things. And I showed her
24 my feet. And they gave me a Foley catheter and a bunch
25 of urine came out. And she said that I had Cauda Equina

1 Syndrome and that I should prepare for the worst because
2 I probably wouldn't be able to walk again.

3 Q Then what happened?

4 A Then I signed a form to go to another ambulance because
5 there was no - there is no neurosurgeon on-call here, so
6 they sent me up to St. Pete's. And they - Dr. Yamamoto
7 was waiting up there for me and he took me in there and
8 they gave me an MRI. And he said that I had Cauda
9 Equina Syndrome really severe and they had to operate on
10 me or I was going to die. And I had acute renal failure
11 at that point.

12 Q I take it that your kidney failure corrected itself?

13 A It did, yeah.

14 Q Okay. What do you remember about your hospitalization
15 and your rehab?

16 A It was intense is what I remember. I had about three
17 days I think or so in the hospital and then I had about
18 I think nine days or so in rehab. And then rehab was
19 pretty intense. They got me up out of bed. They put
20 TED hose on me and I had a talker. And they tried to
21 teach me to walk again and different things. And I
22 could only walk about 20 or 30 feet at that point. And
23 they got me on a bicycle moving my legs.

24 And they had a Foley catheter inserted because I had
25 to pee so much. I had all this retained water from all